

1 Yakub Hazzard (SBN 150242)
2 Rebecca Benyamin (SBN 334130)
3 MITCHELL SILBERBERG & KNUPP
4 LLP
5 2049 Century Park East, 18th Floor
6 Los Angeles, CA 90067
7 Telephone: (310) 312-2000
8 Email: yxh@msk.com
9 Email: rle@msk.com

10 Matthew Jones (*pro hac vice*)
11 JONES & ADAMS, PA
12 999 Ponce De Leon, Suite 925
13 Coral Gables, FL 33134
14 Telephone: (305) 270-8858
15 Email: matthew@jones-
16 adams.com
17 Email: steven@jones-adams.com

18 *Attorneys for Respondents*

Travis A. Corder (SBN: 237575)
CORDER LAW OFFICE
11355 w. Olympic Blvd., Suite 200
Los Angeles, CA 90064
Telephone: (310) 775-5762
Email: travisacorder@gmail.com

Averil K. Andrews (SBN 315843)
Patrick D. Vellone (*pro hac vice*)
ALLEN VELLONE WOLF HELFRICH &
FACTOR P.C.
1600 Stout Street, Suite 900
Denver, CO 80202
Telephone: (303) 534-4499
Email: aandrews@allen-vellone.com

Attorneys for Petitioner

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **WESTERN DIVISION**

18 In The Matter Of The Arbitration
19 Between TRADEWINDS LTD., d/b/a
20 TRADEWINDS CONSULTING, LTD.,

21 Petitioner,

22 v.

23 GRUPO DOLPHIN DISCOVERY and
24 CONTROLADORA DOLPHIN S.A. de
25 C.V.,

26 Respondents.

Case No. 2:17-cv-01292-RGK

RAO

**STIPULATED
PROTECTIVE ORDER**

1 1. A. PURPOSES AND LIMITATIONS

2 Discovery in this judgment enforcement action may involve production of
3 confidential information of disinterested third parties for which special protection
4 from public disclosure and from use for any purpose other than enforcing the
5 judgment may be warranted. Accordingly, the parties hereby stipulate to and
6 petition the Court to enter the following Stipulated Protective Order. The judgment
7 debtors acknowledge that discovery in a judgment enforcement is distinct from a
8 pre-judgment action. Post judgment discovery favors “full discovery of any matter
9 arguably related to [the creditor’s] efforts to trace [the debtor’s] assets and
10 otherwise enforce its judgment.” *A&F Bahamas, LLC, World Venture Group, Inc.*,
11 CV 17-8523, 2018 WL 5961297 at *2 (C.D. Cal. 2018). Therefore, this Order is
12 narrowly tailored to protect the confidential information of disinterested third
13 parties. It does not confer protections to the financial information and business
14 information of the debtors. Not does it provide blanket protections on all
15 disclosures or responses to discovery. The protection this order affords from public
16 disclosure and use extends only to the limited information or items that are entitled
17 to confidential treatment under the applicable legal principles and pursuant to this
18 order.

19 B. GOOD CAUSE STATEMENT

20 The judgment debtors have requested entry of this protective order to
21 maintain the confidentiality of contracts with third parties that contain valid
22 confidentiality clauses. Plaintiff also agrees not to use the information or documents
23 acquired in discovery (that Plaintiff would not have had access to otherwise) for
24 competitive or commercial purposes. Plaintiff further agrees not to disseminate or
25 post information or documents acquired from Defendants in discovery (that
26 Plaintiff would not have had access to otherwise) on social media platforms. **This**
27 **protective order is limited to these purposes.** Accordingly, to expedite the flow
28 of information, to facilitate the prompt resolution of disputes over confidentiality

1 of discovery materials, to adequately protect information that third parties are
2 entitled to keep confidential, to ensure that the judgment creditor is permitted
3 reasonable necessary uses of such material to enforce the judgment, to address their
4 handling at the end of the litigation, and serve the ends of justice, a protective order
5 for such information is justified in this matter. It is the intent of the parties that
6 information will not be designated as confidential for tactical reasons and that
7 nothing be so designated without a good faith belief that it has been maintained in
8 a confidential, non-public manner, and there is good cause why it should not be part
9 of the public record of this case.

10 D. ACKNOWLEDGEMENT OF PROCEDURE FOR FILING UNDER
11 SEAL

12 The parties further acknowledge, as set forth in Section 12.3, below, that this
13 Stipulated Protective Order does not entitle them to file confidential information
14 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed
15 and the standards that will be applied when a party seeks permission from the court
16 to file material under seal.

17 There is a strong presumption that the public has a right of access to judicial
18 proceedings and records in civil cases. In connection with non-dispositive motions,
19 good cause must be shown to support a filing under seal. *See Kamakana v. City and*
20 *County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006); *Phillips v. Gen. Motors*
21 *Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002); *Makar-Welbon v. Sony Electronics,*
22 *Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders
23 require good cause showing), and a specific showing of good cause or compelling
24 reasons with proper evidentiary support and legal justification, must be made with
25 respect to Protected Material that a party seeks to file under seal. The parties' mere
26 designation of Disclosure or Discovery Material as CONFIDENTIAL does not—
27 without the submission of competent evidence by declaration, establishing that the
28

1 material sought to be filed under seal qualifies as confidential, privileged, or
2 otherwise protectable—constitute good cause.

3 Further, if a party requests sealing related to a motion, then compelling
4 reasons, not only good cause, for the sealing must be shown, and the relief sought
5 shall be narrowly tailored to serve the specific interest to be protected. *See Pintos*
6 *v. Pacific Creditors Ass’n*, 605 F.3d 665, 677-79 (9th Cir. 2010). For each item or
7 type of information, document, or thing sought to be filed or introduced under seal
8 in connection with a motion, the party seeking protection must articulate
9 compelling reasons, supported by specific facts and legal justification, for the
10 requested sealing order. Again, competent evidence supporting the application to
11 file documents under seal must be provided by declaration.

12 Any document that is not confidential, privileged, or otherwise protectable
13 in its entirety will not be filed under seal if the confidential portions can be redacted.
14 If documents can be redacted, then a redacted version for public viewing, omitting
15 only the confidential, privileged, or otherwise protectable portions of the document
16 shall be filed. Any application that seeks to file documents under seal in their
17 entirety should include an explanation of why redaction is not feasible.

18 2. DEFINITIONS

19 2.1 Action: this federal lawsuit.

20 2.2 Challenging Party: a Party or Non-Party that challenges the
21 designation of information or items under this Order.

22 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
23 how it is generated, stored or maintained) or tangible things that qualify for
24 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
25 the Good Cause Statement.

26 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
27 their support staff).
28

1 2.5 Designating Party: a Party or Non-Party that designates information
2 or items that it produces in disclosures or in responses to discovery as
3 “CONFIDENTIAL.”

4 2.6 Disclosure or Discovery Material: all items or information, regardless
5 of the medium or manner in which it is generated, stored, or maintained (including,
6 among other things, testimony, transcripts, and tangible things) that are produced
7 or generated in disclosures or responses to discovery in this matter.

8 2.7 Expert: a person with specialized knowledge or experience in a matter
9 pertinent to the litigation who has been retained by a Party or its counsel to serve
10 as an expert witness or as a consultant in this Action.

11 2.8 House Counsel: attorneys who are employees of a party to this Action.
12 House Counsel does not include Outside Counsel of Record or any other outside
13 counsel.

14 2.9 Non-Party: any natural person, partnership, corporation, association or
15 other legal entity not named as a Party to this action.

16 2.10 Outside Counsel of Record: attorneys who are not employees of a
17 party to this Action but are retained to represent or advise a party to this Action and
18 have appeared in this Action on behalf of that party or are affiliated with a law firm
19 that has appeared on behalf of that party, and includes support staff.

20 2.11 Party: any party to this Action, including all of its officers, directors,
21 employees, consultants, retained experts, and Outside Counsel of Record (and their
22 support staffs).

23 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
24 Discovery Material in this Action.

25 2.13 Professional Vendors: persons or entities that provide litigation
26 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
27 demonstrations, and organizing, storing, or retrieving data in any form or medium)
28 and their employees and subcontractors.

1 2.14 Protected Material: any Disclosure or Discovery Material that is
2 designated as “CONFIDENTIAL.”

3 2.15 Receiving Party: a Party that receives Disclosure or Discovery
4 Material from a Producing Party.

5 3. SCOPE

6 The protections conferred by this Stipulation and Order cover not only
7 Protected Material (as defined above), but also (1) any information copied or
8 extracted from Protected Material; (2) all copies, excerpts, summaries, or
9 compilations of Protected Material; and (3) any testimony, conversations, or
10 presentations by Parties or their Counsel that might reveal Protected Material.

11 Any use of Protected Material in judgment enforcement proceedings shall be
12 governed by the orders of Court. This Order does not govern the use of Protected
13 Material at evidentiary hearings.

14 4. DURATION

15 If this case proceeds to a trial or evidentiary hearing, information that was
16 designated as CONFIDENTIAL or maintained pursuant to this protective order
17 used or introduced as an exhibit at any evidentiary hearing becomes public and will
18 be presumptively available to all members of the public, including the press, unless
19 compelling reasons supported by specific factual findings to proceed otherwise are
20 made to the trial judge in advance of the trial. *See Kamakana*, 447 F.3d at 1180-81
21 (distinguishing “good cause” showing for sealing documents produced in discovery
22 from “compelling reasons” standard when merits-related documents are part of
23 court record). Accordingly, the terms of this protective order do not extend beyond
24 the commencement of the trial or evidentiary hearing.

25 5. DESIGNATING PROTECTED MATERIAL

26 5.1 Exercise of Restraint and Care in Designating Material for Protection.
27 Each Party or Non-Party that designates information or items for protection under
28 this Order must take care to limit any such designation to specific material that

1 qualifies under the appropriate standards. The Designating Party must designate for
2 protection only those parts of material, documents, items or oral or written
3 communications that qualify so that other portions of the material, documents,
4 items or communications for which protection is not warranted are not swept
5 unjustifiably within the ambit of this Order.

6 Mass, indiscriminate or routinized designations are prohibited. Designations
7 that are shown to be clearly unjustified or that have been made for an improper
8 purpose (e.g., to unnecessarily encumber the case development process or to
9 impose unnecessary expenses and burdens on other parties) may expose the
10 Designating Party to sanctions.

11 If it comes to a Designating Party's attention that information or items that it
12 designated for protection do not qualify for protection, that Designating Party must
13 promptly notify all other Parties that it is withdrawing the inapplicable designation.

14 5.2 Manner and Timing of Designations. Except as otherwise provided in
15 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise
16 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
17 under this Order must be clearly so designated before the material is disclosed or
18 produced.

19 Designation in conformity with this Order requires:

20 (a) for information in documentary form (*e.g.*, paper or electronic
21 documents, but excluding transcripts of depositions or other pretrial or trial
22 proceedings), that the Producing Party affix at a minimum, the legend
23 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
24 contains protected material. **If only a portion of the material on a page qualifies**
25 **for protection, the Producing Party also must clearly identify the protected**
26 **portion(s) (*e.g.*, by making appropriate markings in the margins). The**
27 **producing party must also include a log that states the basis for each**
28 **confidentiality designation (*e.g.* pointing to the contractual provision or**

nondisclosure agreement that requires the producing party to maintain that document as confidential.)

A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page that contains Protected Material. If only a portion of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the margins).

(b) for testimony given in depositions that the Designating Party identifies the Disclosure or Discovery Material on the record, before the close of the deposition all protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the

1 provisions of this Order.

2
3 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

4 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
5 designation of confidentiality at any time.

6 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
7 resolution process under Local Rule 37.1 et seq.

8 6.3 The burden of persuasion in any such challenge proceeding shall be
9 on the Designating Party. Frivolous challenges, and those made for an improper
10 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
11 parties) may expose the Challenging Party to sanctions. Unless the Designating
12 Party has waived or withdrawn the confidentiality designation, all parties shall
13 continue to afford the material in question the level of protection to which it is
14 entitled under the Producing Party's designation until the Court rules on the
15 challenge.

16 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

17 7.1 Basic Principles. A Receiving Party may use Protected Material that
18 is disclosed or produced by another Party or by a Non-Party in connection with this
19 Action only for enforcing the Judgement entered in this Action. Such Protected
20 Material may be disclosed only to the categories of persons and under the
21 conditions described in this Order. When the judgment has been satisfied or
22 discharged, a Receiving Party must comply with the provisions of section 13 below
23 (FINAL DISPOSITION).

24 Protected Material must be stored and maintained by a Receiving Party at a
25 location and in a secure manner that ensures that access is limited to the persons
26 authorized under this Order.

27 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
28 otherwise ordered by the court or permitted in writing by the Designating Party, a

1 Receiving Party may disclose any information or item designated
2 “CONFIDENTIAL” only to:

3 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
4 as employees of said Outside Counsel of Record to whom it is reasonably necessary
5 to disclose the information for this Action;

6 (b) the officers, directors, and employees (including House Counsel) of the
7 Receiving Party to whom disclosure is reasonably necessary for this Action;

8 (c) Experts (as defined in this Order) of the Receiving Party to whom
9 disclosure is reasonably necessary for this Action and who have signed the
10 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

11 (d) the court and its personnel;

12 (e) court reporters and their staff;

13 (f) professional jury or trial consultants, mock jurors, and Professional
14 Vendors to whom disclosure is reasonably necessary for this Action and who have
15 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16 (g) the author or recipient of a document containing the information or a
17 custodian or other person who otherwise possessed or knew the information;

18 (h) during their depositions, witnesses, and attorneys for witnesses, in the
19 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
20 requests that the witness sign the form attached as Exhibit A hereto; and (2) they
21 will not be permitted to keep any confidential information unless they sign the
22 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
23 agreed by the Designating Party or ordered by the court. Pages of transcribed
24 deposition testimony or exhibits to depositions that reveal Protected Material may
25 be separately bound by the court reporter and may not be disclosed to anyone except
26 as permitted under this Stipulated Protective Order; and

27 (i) any mediator or settlement officer, and their supporting personnel,
28 mutually agreed upon by any of the parties engaged in settlement discussions.

1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
 2 IN OTHER LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation
 4 that compels disclosure of any information or items designated in this Action as
 5 “CONFIDENTIAL,” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification shall
 7 include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to
 9 issue in the other litigation that some or all of the material covered by the subpoena
 10 or order is subject to this Protective Order. Such notification shall include a copy
 11 of this Stipulated Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be pursued
 13 by the Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with
 15 the subpoena or court order shall not produce any information designated in this
 16 action as “CONFIDENTIAL” before a determination by the court from which the
 17 subpoena or order issued, unless the Party has obtained the Designating Party’s
 18 permission. The Designating Party shall bear the burden and expense of seeking
 19 protection in that court of its confidential material and nothing in these provisions
 20 should be construed as authorizing or encouraging a Receiving Party in this Action
 21 to disobey a lawful directive from another court.

22 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
 23 PRODUCED IN THIS LITIGATION

24 (a) The terms of this Order are applicable to information produced by a Non-
 25 Party in this Action and designated as “CONFIDENTIAL.” Such information
 26 produced by Non-Parties in connection with this litigation is protected by the
 27 remedies and relief provided by this Order. Nothing in these provisions should be
 28 construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and;

(d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Local Civil Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party’s request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information

1 in the public record unless otherwise instructed by the court.

2 13. FINAL DISPOSITION

3 After the judgment (and any amendments thereto) in this Action, as defined
4 in paragraph 4, is completely satisfied, within 60 days of a written request by the
5 Designating Party, each Receiving Party must return all Protected Material to the
6 Producing Party or destroy such material. As used in this subdivision, “all Protected
7 Material” includes all copies, abstracts, compilations, summaries, and any other
8 format reproducing or capturing any of the Protected Material. Whether the
9 Protected Material is returned or destroyed, the Receiving Party must submit a
10 written certification to the Producing Party (and, if not the same person or entity,
11 to the Designating Party) by the 60 day deadline that (1) identifies (by category,
12 where appropriate) all the Protected Material that was returned or destroyed and (2)
13 affirms that the Receiving Party has not retained any copies, abstracts,
14 compilations, summaries or any other format reproducing or capturing any of the
15 Protected Material. Notwithstanding this provision, Counsel are entitled to retain
16 an archival copy of all pleadings, motion papers, trial, deposition, and hearing
17 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
18 reports, attorney work product, and consultant and expert work product, even if
19 such materials contain Protected Material. Any such archival copies that contain or
20 constitute Protected Material remain subject to this Protective Order as set forth in
21 Section 4 (DURATION).

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14. VIOLATION

Any violation of this Order may be punished by appropriate measures including, without limitation, contempt proceedings and monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED May 19, 2023

/s/ Averil K. Andrews
Attorneys for Petitioner

DATED: May 19, 2023

/s/ Matthew L. Jones
Attorneys for Respondent

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: May 24, 2023

Rozella A. Oliver
HON. ROZELLA A. OLIVER
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Central District of California
on [date] in the case of _____ **[insert formal name of the case and the
number and initials assigned to it by the court]**. I agree to comply with and to
be bound by all the terms of this Stipulated Protective Order and I understand and
acknowledge that failure to so comply could expose me to sanctions and
punishment in the nature of contempt. I solemnly promise that I will not disclose
in any manner any information or item that is subject to this Stipulated Protective
Order to any person or entity except in strict compliance with the provisions of this
Order.

I further agree to submit to the jurisdiction of the United States District Court for
the Central District of California for enforcing the terms of this Stipulated
Protective Order, even if such enforcement proceedings occur after termination of
this action. I hereby appoint _____ [print or type full
name] of _____ [print or type full
address and telephone number] as my California agent for service of process in
connection with this action or any proceedings related to enforcement of this
Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____